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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

INDEPENDENT
TELEPHONE & TELECOMMUNICATIONS
ALLIANCE

August 20, 1998

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: 1998 Biennial Review—Review of ARMIS Reporting Requirements, CC Docket No. 98-117

Dear Ms. Salas:

This letter is to advise you that the Independent Telephone and Telecommunications Alliance (ITTA) is submitting the attached Comments in the above-referenced proceeding. One original and six copies of the Comments are attached for filing with your office in accordance with Sections 1.415 and 1.419(b) of the Commission's rules 47 C.F.R. §§ 1.415. Six additional copies are also attached for filing with the Chairman and Commissioners and the International Transcription Services (ITS). An additional Copy will be filed with Anthony Dale, Accounting Safeguards Division, Common Carrier Bureau, F.C.C. 2.000 L Street, N.W. Suite 201, Washington, D.C. 20554.

Please feel free to contact me if you have any questions regarding this matter.

Respectfully submitted,

David W. Zesiger
Executive Director

Enclosures

No. of Copies rec'd 0+4
List A B C D E

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
1998 Biennial Regulatory Review--	)	CC Docket No. 98-117
Review of ARMIS Reporting Requirements	)	

Comments of
The Independent Telephone & Telecommunications Alliance

On behalf of its midsize company members, the Independent Telephone & Telecommunications Alliance hereby files these comments in support of the Commission's proposed rulemaking. ITTA believes Commission action to reduce the regulatory burdens on midsize companies is more than justified under the statutory standards of Section 11 of the 1996 Act. Additionally, as it did in its recent comments on another portion of the Commission's biennial review process,[1] ITTA again urges the Commission to act immediately on other forbearance measures raised in ITTA's separate Forbearance Petition, now procedurally ripe for Commission consideration. Over six months have passed since the initial filing of that petition with the Commission and both the comment and reply comment rounds have been completed for over three months. Implementation of deregulatory measures in all these proceedings continues to represent an essential first step in achieving congressional goals for a procompetitive, deregulatory national policy framework for the telecommunications industry.

As ITTA stated in its July 17th comments on the Commission's recently proposed changes in accounting and cost allocation rules for the 1998 biennial review, ITTA believes that while the instant proposed rulemaking is a positive step, it clearly does not go as far as both the 1996 Act and the companies' circumstances would warrant.

ITTA supports the reductions in reporting burdens proposed for the ARMIS 43-02 USOA Report, the 43-03 Joint Cost Report, and the 495A & 495B Reports for midsize incumbent LECs. These reports impose a disproportionate reporting burden on midsize LECs and the information contained in them are not necessary for the performance of the Commission's market oversight functions in general.

As in its earlier biennial review NPRM on accounting and cost allocation requirements, the Commission's proposed modifications are intended to address "mid-sized incumbent LECs," whose proposed threshold would again be $7 billion dollars. Once again, the threshold proposed by the current notice is apparently tied to no extrinsic standard or point of reference. As ITTA has noted in many of its filings with the Commission, Congress recognized and defined midsize companies in Section 251(f)(2) of the 1996 Act. Under that provision, carriers with fewer than 2 percent of the nation's subscriber lines installed in the aggregate nationwide are entitled to seek suspensions or modifications with respect to various interconnection duties under Section 251(b) and (c). Since the Commission is seeking here to suspend or modify the application of certain of its rules, the use of a 2% standard would be both logical and congruent with congressional designs for midsize carriers.

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[1] Comments of ITTA in 1998 Biennial Regulatory Review; Review of Accounting and Cost Allocation Requirements, CC Docket No. 98-81 and United State Telephone Association Petition for Rulemaking, ASD File No. 98-64, filed July 17, 1998 ["ITTA's July 17th comments"].

The notice also introduces an additional term for the carriers that would benefit from the proposed reductions in ARMIS reporting requirements -- "eligible reporting carriers."[2] The introduction of this new term is both unnecessary and unnecessarily vague. The Commission's use of the "mid-sized incumbent LEC" -- both in the earlier biennial review of accounting and cost allocation requirements and in the instant Notice -- describes more accurately and simply the subset of carriers affected by its proposed decisions.

As stated in ITTA's July 17th comments, the actions proposed in the current rulemaking do not go nearly as far as they could. ITTA reiterates here that its Forbearance Petition lists nine such areas where forbearance is fully justified. As reflected in the summary of that Petition appended hereto in Attachment A and incorporated by reference herein, much more can be done to reduce the uneconomic drag which unnecessary regulation imposes on midsize carriers. As demonstrated in the filings made in that proceeding, those requirements could be "reduced or eliminated" with the result that competition would be enhanced and the public interest promoted.

ITTA again notes herein that Commission action in this proceeding is not the equivalent of, nor does it substitute for, action with respect to the Forbearance Petition. As ITTA discussed in both the Petition and its Reply Comments related thereto, the standard of review to be applied under Section 11 is different from that contained in Section 10, under which ITTA filed its Petition. The test under Section 11 is retrospective in nature and relies "on the result of meaningful economic competition." Section 10, to the contrary, is prospective in nature. It looks to acts of forbearance and regulatory flexibility which "will promote competitive market conditions, including the extent to

[2] NPRM at fn. 11.

which such forbearance will enhance competition among providers of telecommunications services."[3]

Therefore, adoption of the modifications proposed here may moot some of the issues raised in ITTA's Forbearance Petition, but would not eliminate the need to address the remaining matters in accordance with the provisions of Section 10. Further, any decision by the Commission against adoption of the modifications proposed in this rulemaking would have no collateral effect on ITTA's Petition, because the standards applicable here are different from those applicable in that proceeding. Again, as stated in ITTA's July 17th comments, Section 11 cannot properly be interposed to circumvent the standard of review imposed under Section 10. Since the pleading cycle for its Section 10 Petition is long since concluded, ITTA again urges timely action on its Petition irrespective of the Commission's further deliberations in this proceeding.

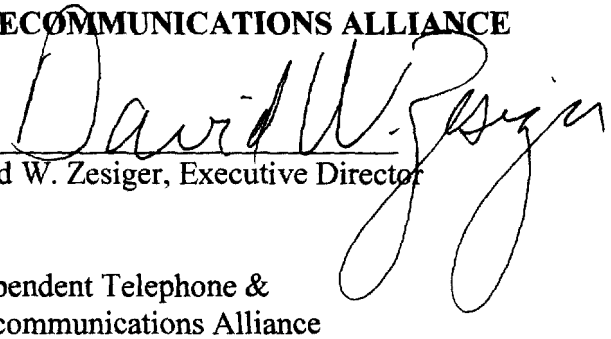
Conclusion

ITTA reiterates that Congress has already determined that deregulation is an indispensable adjunct to competition and to realization of the consumer benefits which competition promises to provide. The statute offers two separate paths toward deregulation – one Commission initiated and retrospective in nature under Section 11, and one carrier initiated and prospective under Section 10. In the current rulemaking, in the Commission's other biennial review rulemakings, and in ITTA's Forbearance Petition proceeding, the Commission has the opportunity to implement both provisions of the Act and to clearly demonstrate its intention to carry out the congressional design for deregulation. ITTA again urges the Commission to do so in timely fashion.

[3] 47 U.S.C. 160(b).

Respectfully submitted,

THE INDEPENDENT TELEPHONE & TELECOMMUNICATIONS ALLIANCE

By: 
David W. Zesiger, Executive Director

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August 20, 1998

Appendix A

APPENDIX A

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)
	)
Petition for Forbearance for	)
2% Mid-Size	)
Local Exchange Companies	)

PETITION FOR FORBEARANCE OF THE INDEPENDENT TELEPHONE & TELECOMMUNICATIONS ALLIANCE

David W. Zesiger

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February 17, 1998

EXECUTIVE SUMMARY

The Independent Telephone and Telecommunications Alliance ("ITTA") asks the Commission to forbear from applying each of the nine regulations referenced herein to 2% mid-size incumbent local exchange carriers ("2% mid-size companies"), those mid-size companies serving less than 2 percent of the nation's access lines. Reducing these unnecesssary and duplicative regulations will promote competition by freeing mid-size companies to devote greater resources to improving customer service, investing in network upgrades and developing new service offerings. By forbearing from applying these regulations, the FCC can materially advance the prospect of telecommunications competition in accord with the pro-competitive and deregulatory spirit of the 1996 Telecommunications Act and with the "common sense" regulatory policy advocated by Chairman Kennard.

The 1996 Act profoundly altered the local exchange company marketplace and the repercussions are acutely felt by mid-size companies. No longer could an incumbent local exchange carrier ("ILEC") depend on the legal protections of a statutorily mandated marketplace. Never again would an ILEC business plan presume the stability and unique charateristics of a legally protected monopoly. While competition did not instantaneously take hold overnight and while a variety of operational and technical isues still must be addressed, it is undeniable that on February 8, 1996, the world became a much different place for the ILEC industry.

This petition requests relief specifically for 2% mid-size companies given the disproportionate burden each of these regulations imposes on these companies. "One-size-fits-all" regulation typically results in substantially greater compliance burdens on mid-size companies than on larger ILECs. This is particularly true when costs are measured on a per-

line or per-customer basis, yielding mid-size company compliance costs that can easily total many multiples of those of the largest companies.

Two percent mid-size companies hold an unusual position in the telecommunications marketplace. They typically confront actual and potential competitors many times their size with vastly greater resources, more extensive capabilities, and highly sophisticated infrastructures. Thus, it is all the more important that the Commission remove unnecessary regulatory burdens if it is to effectively promote competition.

Moreover, the demands on the limited resources of mid-size companies continue to mount. New costing and pricing requirements for interconnection proceedings; operational and technical demands for local number portability, operations support systems and other services; and the expense of training personnel for "first time ever" interconnection negotiations and customer retention and marketing activities, all add to the burden. Despite the massive changes of the past two years, rather than reducing the regulatory burden on mid-size ILECs, in many instances the FCC has increased them. Mid-size companies can no longer bear this regulatory overload.

The Commission's reporting, recordkeeping, procedural and structural requirements cited in this petition are not necessary to fulfill the fundamental purposes of the Act, such as preventing unreasonable or discriminatory pricing. None of the requests submitted in this petition seeks forbearance from the Communications Act's or the Commission's substantive regulations. Furthermore, the Commission already has mechanisms in place to detect and eliminate anticompetitive practices. Forbearance from the regulations cited herein will contribute materially to increasing competition and leveling the playing field between mid-size ILECs and their competitors.

A class of telecommunications carriers is entitled to seek forbearance from the application of any regulation or provision of the Act if certain standards are met. Section 10(a) of the 1996 Act mandates that the Commission forbear from enforcing regulations where (1) the regulations are not necessary to ensure just and reasonable rates and to ensure against unreasonable discrimination; (2) the regulations are not necessary to protect consumers; and (3) forbearance is in the public interest. ITTA is seeking relief for one such class of carriers -- its mid-size telephone company members -- based upon their particular circumstances.

The test for forbearance is clearly met for 2% mid-size companies with regard to each of the nine regulations referenced herein, which are grouped into three broad categories: (1) reporting and recordkeeping requirements; (2) procedural requirements; and (3) structural and pre-approval requirements. The following is a list of those issues, and the reasons why forbearance is justified by marketplace considerations and other public interest factors.

Reporting and Recordkeeping Requirements

1. Class A Accounting Requirements and CAM Filings and Audits Should be Eliminated For 2% Mid-Size Companies.
   - The current indexed revenue threshold has captured smaller telcos that were never intended to comply with these requirements.
   - Consumers are protected because carriers would still have to comply with Class B accounting, cost allocation, and affiliate transaction rules.

2. ARMIS Financial and Operating Reports Should Be Eliminated For 2% Mid-Size Companies.
   - These reports are unnecessary given that existing Commission mechanisms prevent improper cost-allocation and discriminatory pricing.
   - Eliminating ARMIS reports will improve mid-size companies' operating efficiencies and assist their efforts to offer competitive and innovative services.
   - To an increasing degree, actual and potential competition check pricing behavior that can harm consumers.

3. Quality of Service Report 43-05 Should Be Eliminated For 2% Mid-Size Companies.
   - The service quality report unnecessarily duplicates state quality of service reporting requirements.

- The report can be safely eliminated because quality of service has not been a problem under price caps since the regulation's inception.
- The service quality report is costly and administratively cumbersome to produce, thus hindering mid-size companies' efforts to offer competitive services.
- To an increasing degree, competition reinforces the natural tendency to ensure that consumers receive quality service.

4. Detailed Tariff Cost Support Materials Should Be Eliminated For 2% Mid-Size Companies.
   - Challenges may be filed to objectionable rates, either through the complaint process or pre-effective petitions to deny based on more simplified cost support materials.
   - Compilation of this information delays the delivery of new services to the public.
   - To an increasing degree, actual and potential competition preclude pricing behavior that can harm consumers.

Procedural Requirements

5. Section 214 Applications Should Not Be Required For "New" Lines Added by Rate-of-Return Carriers.
   - The 1996 Telecommunications Act expressly eliminated applications for line extensions, out of recognition that they delayed facilities deployment.
   - "Gold plating" is impractical in a competitive marketplace.
   - Section 214 applications slow service to the public.
   - The applications expose competitively sensitive information not required of competitors, handicapping certain mid-size ILECs.

6. Part 69 Waiver Requests Should Be Abolished For 2% Mid-Size Companies.
   - Part 69 waiver requests are unnecessary since the Commission can evaluate new rate elements through the tariff review process.
   - Waiver requests increase costs and slow services to the public, in violation of the streamlined tariff review process added by the 1996 Act.

7. Detailed Merger and Acquisition Information Requirements Should be Eliminated for Mergers Between 2 % Carriers or Between a 2% Company and a Non-ILEC.
   - The *Bell-Atlantic/NYNEX* economic and marketplace information requirements are unnecessary because mergers of 2 percent companies are unlikely to adversely affect competition.
   - Antitrust review by the Department of Justice and the Federal Trade Commission is more than adequate to protect consumers or prevent an unreasonable impact on rates.
   - The FCC's traditional public interest considerations can be addressed without such detailed reporting requirements and the FCC retains the authority to request the necessary information on a case-by-case basis.

Structural and Pre-approval Requirements

8. Structural Separation for In-Region Interexchange Services Should be Eliminated For 2% Mid-Size Companies.
    - Mid-size ILECs cannot harm competition because of their small market share in the interexchange market, which is already dominated by well-entrenched IXCs.
    - Other safeguards prevent cross-subsidization and discriminatory behavior.
    - Eliminating structural separation can decrease carrier costs and increase operating efficiencies that redound to the benefit of consumers.
    - Actual and potential competition increasingly precludes mid-size ILECs from engaging in a price squeeze or unreasonably increasing access pricing.

9. Structural Separation for In-Region CMRS Services Should Be Eliminated For 2% Mid-Size Companies.
    - Other safeguards prevent cross-subsidization and nondiscriminatory behavior.
    - Mid-size ILECs cannot harm competition because a number of wireless carriers are well entrenched and telephone and wireless "footprints" are so different that any attempted cross-subsidy would fail to achieve any anticompetitive effect.
    - Eliminating structural separation will decrease carrier costs and increase operating efficiencies.

The 1996 Act irrevocably changed the telecommunications marketplace. This circumstance, coupled with the existence of other FCC and state law and procedures, clearly eliminates the need for each of the nine regulations identified above as to 2% mid-size companies. The FCC should, therefore, exercise its clear legislative mandate to eliminate each of these unnecessary regulations as to these companies and promote their competitive efforts.